



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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Preston Bryant  
Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

## VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

### ORDER BY CONSENT ISSUED TO Mecklenburg County Sanitary Landfill Permit Number 014

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455.C and F between the Waste Management Board and Mecklenburg County for the purpose of addressing violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations..

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "SCRO" means the South Central Regional Office of DEQ located in Lynchburg, Virginia.
6. "Order" means this document, also known as a Consent Order.

7. "Mecklenburg" or "the County" means Mecklenburg County, Virginia.
8. "Facility" means Sanitary Landfill, Permit Number 014, located in Mecklenburg, which is owned and operated by the County.
9. "VSWMR" or "Regulations" means the Virginia Solid Waste Management Regulations, 9 Virginia Administrative Code ("VAC") 20-80-10 *et seq.*
10. "FAR" means the Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities , 9VAC20-70-10 *et seq.*

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Mecklenburg was issued a permit by the Virginia Department of Health on July 19, 1971, to dispose of solid waste at the Facility.
2. The Facility is commonly referred to as a "1205 landfill" in that House Bill 1205, codified at Va. Code § 10-1408.1.N, allows a solid waste facility permitted prior to the requirements of Subtitle D of the federal Resource Conservation and Recovery Act ("RCRA") to continue to receive solid waste "until they have reached their vertical design capacity[.]"
3. Based upon an inspection conducted by the SCRO of DEQ on March 9, 2006, DEQ issued Notice of Violation No 06-04-SCRO-010 ("NOV") to the County. The NOV alleged, among other things, the following:
  - a. Failure to maintain the integrity of the intermediate cover (leachate seeps observed) as required by 9 VAC 20-80-250.C.2.d of the VSWMR; and,
  - b. Failure to control disease vectors (large number of birds observed) as required by 9 VAC 20-80-250.C.4 of the VSWMR.
4. In a response to the NOV dated April 27, 2006, Mecklenburg's consultant, Joyce Engineering, Inc. ("JEI"), addressed the deficiencies noted in the NOV. Within the response, JEI noted that leachate seeps at the Facility would be addressed through the installation of approximately 1,500 linear feet of leachate collection drain along the toe of Phase I with collection to occur in a 1,500 gallon tank and ultimate disposal of collected leachate to occur via pump and haul to a publicly owned treatment works (POTW). By transmittal letter dated June 15, 2006, JEI submitted a report to DEQ entitled *Revised Closure Plan to update Facility Operating Record* ("RCP"). The RCP incorporates the County's leachate toe drain collection system. Appendix A of the Order further addresses the RCP submittal.

### **SECTION D: Agreement and Order**

By virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Mecklenburg, and Mecklenburg agrees, to perform the actions described in Appendix A of this

Order. In addition, the Board orders Mecklenburg, and Mecklenburg voluntarily agrees, to pay a civil charge of **\$1,600** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

The payment shall include Mecklenburg's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

#### **SECTION E: Administrative Provisions**

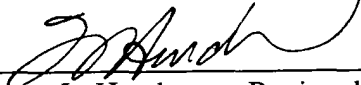
1. The Board may modify, rewrite, or amend the Order with the consent of Mecklenburg, for good cause shown by Mecklenburg, or on its own motion for good cause shown and after notice and opportunity for Mecklenburg to be heard.
2. This Order only addresses and resolves the matters specifically identified herein. This Order shall not preclude the Board, or the Director, from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Mecklenburg admits to the jurisdictional allegations, findings of fact, and conclusion of law contained herein.
4. Mecklenburg declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
5. Failure by Mecklenburg to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Upon execution of this Order Mecklenburg shall be responsible for failure to comply with any of the terms and conditions herein after the date hereof unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Mecklenburg shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Mecklenburg shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

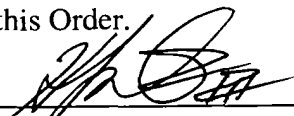
Failure to so notify the Regional Director within 72 hours of learning of any condition above, which Mecklenburg intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director, or his designee, and Mecklenburg. Notwithstanding the foregoing, Mecklenburg agrees to be bound by any compliance date which precedes the effective date of this Order.
10. This Order shall continue in effect until:
  - a. Mecklenburg has, to the satisfaction of the Department, completed all requirements of the Order; or,
  - b. The Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Mecklenburg.
11. By its signature below, Mecklenburg consents to the issuance of this Order.

And it is so ORDERED this 28<sup>th</sup> day of November, 2006.

  
\_\_\_\_\_  
Thomas L. Henderson, Regional Director  
Department of Environmental Quality

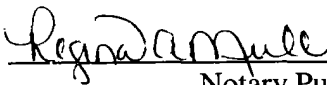
Mecklenburg County consents to the issuance of this Order.

By:   
\_\_\_\_\_  
Date: October 10, 2006

Commonwealth of Virginia

~~City~~/County of Mecklenburg

The foregoing document was signed and acknowledged before me this 10<sup>th</sup> day of October, 2006, by H. Wayne Carter, III, who is the Administrator of Mecklenburg County on behalf of the County.

  
\_\_\_\_\_  
Notary Public

My commission expires: February 28, 2010

**APPENDIX A  
SCHEDULE OF COMPLIANCE  
MECKLENBURG COUNTY  
SANITARY LANDFILL PERMIT NO. 014**

1. Pursuant to 9 VAC 20-80-250.E.3.f of the VSWMR, DEQ will review Mecklenburg County's RCP. DEQ's review of the RCP will include an assessment of the leachate toe drain system for compliance with the applicable provisions of 9 VAC 20-80-290 of the VSWMR pertaining to leachate control. Mecklenburg shall respond to any notices of deficiency ("NOD") issued by DEQ on the RCP in accordance with the timeframe specified in the NOD(s).
2. **Within 90 days** following DEQ's approval of the RCP, Mecklenburg shall adjust its financial assurance mechanism (to include cost estimates and supporting documentation submitted to DEQ for approval) in accordance with the FAR. DEQ shall review the respective cost estimates and provide comments as necessary. Mecklenburg may request a meeting with DEQ to review the basis of DEQ's cost estimates for each area. **Within 30 days** after receipt of DEQ's comments, Mecklenburg shall demonstrate financial assurance reflective of the approved RCP using one of the mechanisms listed under Article 4 (9 VAC 20-70-140) of the FAR.